
in the
Supreme Court
of the
United States

Supreme Court, U. S.

FILED

OCT 20 1978

MICHAEL R. BODAK, JR., CLERK

78-679
No. _____

PAUL KUGEL,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF FLORIDA**

JOSEPH A. VARON
2432 Hollywood Boulevard
Hollywood, Florida 33020
Attorney for Petitioner

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PAUL KUGEL,

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vs.

STATE OF FLORIDA,

Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF FLORIDA**

TO: The Honorable Chief Justice and Associate
Justices of the Supreme Court of the United
States.

Petitioner, PAUL KUGEL, prays that a Writ of Certiorari issue to review a final judgment and order denying Petition for Rehearing of the Supreme Court of the State of Florida. The final judgment was entered May 18, 1978, and the Order denying Petition for Rehearing was entered on July 31, 1978 (Appendix A and B, *infra*), by which denial the Supreme Court of Florida upheld an order of the District Court of Florida, Fourth District, entered on September 20, 1977, (Appendix C, *infra*), affirming a judgment of conviction rendered against Petitioner in the Circuit Court of Broward County, Florida, convicting Petitioner of the felonious crime of bookmaking.

JUDGMENT AND OPINION OF THE COURT BELOW

In the final judgment of the Supreme Court of Florida entered on May 18, 1978, (Set out in Appendix A) the Court rendered no opinion and gave no reasons for denying Petitioner's Application for Certiorari. In its order denying Petitioner's Petition for Rehearing entered on July 31, 1978, (Appendix B), the Supreme Court of Florida rendered no opinion and gave no reasons for denying the Petition for Rehearing.

In its original opinion filed September 20, 1977, the District Court of Appeal, Fourth District, affirmed the judgment of conviction rendered against Petitioner in the Circuit Court of Broward County, Florida, convicting Petitioner of the crime of bookmaking, without rendering any opinion, or giving any reasons for affirming Petitioner's conviction (Appendix C).

JURISDICTION OF THIS COURT

1. The judgment to be reviewed was entered by the Supreme Court of Florida on May 18, 1978. A Petition for Rehearing was timely filed, and the Supreme Court of Florida entered an order denying said Petition for Rehearing on July 31, 1978, (Appendix B).

This Petition is filed within 90 days of said order denying the Petition for Rehearing.

2. The jurisdiction of this Court is invoked, made and conferred under Title 28 U.S. Code, Sec. 1257(3) and Rule 22(1) of the Rules of this Court.

QUESTIONS PRESENTED FOR REVIEW

Was not the Petitioner deprived of his right to protection under the Fourth Amendment to the Constitution as made applicable to the State of Florida by the Fourteenth Amendment when:

(a) The court erred in not following *Spinelli v. United States*, 393 U.S. 410; and

(b) The trial court refused to suppress wire and telephonic communications based upon an insufficient affidavit, to establish probable cause.

CONSTITUTIONAL AMENDMENTS AND STATUTES INVOLVED

Fourth Amendment, United States
Constitution

Fourteenth Amendment, United States
Constitution

(The pertinent provisions are set out in Appendix E
of this Petition.)

STATEMENT OF THE CASE

Petitioner, by information was charged with the
felonious offense of bookmaking. The basis of the
prosecution were transcripts which were gained pur-
suant to an order authorizing the wire interception of
Petitioner's telephone.

Petitioner moved to suppress the intercepted wire
communication, challenging the sufficiency of the sworn
applications for the order authorizing wire interception,
which motion of suppression was denied by the trial
court.

At a non-jury trial Petitioner was found guilty of
bookmaking and sentenced to three years imprison-
ment.

Petitioner's appeal to the District Court of Appeal
of Florida, Fourth District, was affirmed (Appendix C).
Application for Certiorari was filed by Petitioner in the
Supreme Court of Florida which was denied (Appendix
A) and Petition for Rehearing was also denied by the
Supreme Court of Florida (Appendix B).

**REASONS RELIED UPON FOR
ALLOWANCE OF THE WRIT**

1. The indetical question of law based upon
similar facts is found in the case of *Spinelli v. United
States*, 393 U.S. 410 (1969).

2. The affiant making application for wire inter-
ception relied upon a confidential informant who in-
formed him that Petitioner was back in the gambling
business. In order to establish probable cause, the af-
fiant claimed that Petitioner has been associated in the
past with organized crime figures involved in extortion
and loan sharking. Affiant further claims that Petitioner
was observed in a restaurant with a "known illegal gam-
bling figure". (Appendix D).

Petitioner moved to suppress the application for
wire interception which yielded inculpatve evidence,
and was introduced against Petitioner over his objection
at his non-jury trial. The sole thrust of Petitioner's
defense was the insufficiency of the application for the
wire interception order consonant with the guidelines
enumerated in *Spinelli*, supra.

The Florida Supreme Court in the case of *Anderson
v. State*, 274 So.2d 228, (Fla. 1973), quoted *Spinelli*,
supra, with approval in striking down an application for
a search warrant because the affidavit was insufficient
in that it was based upon an informants report fraught
with hearsay. In that opinion the Florida Supreme
Court condemned the "hopeless pyramiding of in-
ferences".

The Supreme Court of Florida in *Rodriguez v. State*, 297 So.2d 15 (Fla. 1974) struck down a verified application for a wiretap order for lack of probable cause, specifically delineating that the affidavit requires an evaluation of a complete statement of the facts and circumstances relied upon to justify the affiants belief that a wiretap interception order should be entered. This Honorable Court in *Aguilar v. Texas*, 378 U.S. 108 (1964), also held that affidavits must be read in a common sense fashion. With these guidelines we analogize the challenged affidavit with the affidavit in *Spinelli*, supra, using a complete analysis of the facts set forth in each affidavit respectively.

In *Spinelli*, supra, we find four distinct allegations, viz:

1. The FBI had kept track of Spinelli's movements on five days during the month of August, 1965. On four of these occasions, Spinelli was seen crossing one of two bridges leading from Illinois into St. Louis, Missouri, between 11 a.m. and 12:15 p.m. On four of the five days, Spinelli was also seen parking his car in a lot used by residents of an apartment house at 1108 Indian Circle Drive in St. Louis, between 3:30 p.m. and 4:45 p.m.

On one day, Spinelli was followed further and seen to enter a particular apartment in the building.

2. An FBI check with the telephone company revealed that this apartment contained two telephones listed under the name of Grace P. Hagen, and carrying the numbers WYdown 4-0029 and WYdown 4-0136.

3. The application stated that "William Spinelli is known to this affiant and to federal law enforcement agents and local law enforcement. . ."

4. Finally, it was stated that the FBI "has been informed by a confidential reliable informant that William Spinelli is operating a handbook and accepting wagers and disseminating wagering information by means of the telephones which have been assigned the numbers WYdown 4-0029 and WYdown 4-0136."

In the challenged affidavit sub judice we find the following:

1. A recitation that Petitioner has been seen with individuals who are known to be involved in illegal gambling operations in Florida, as well as other organized crime figures.

2. Petitioner was previously indicted for conspiracy to maintain a gambling house.

A confidential informant told affiant that Petitioner has returned to the bookmaking business. Affiant made numerous inquiries and every source of information advised affiant that Petitioner was back in the gambling business.

Petitioner in the case sub judice is of the opinion that the ruling of this Honorable Court in *Spinelli v. United States*, supra, will be dispositive of the issues presented by Petitioner.

CONCLUSION

We respectfully urge that Your Honors will grant the Writ of Certiorari in similar measure, consistent with the teachings of *Spinelli v. United States*, supra.

Respectfully submitted,
JOSEPH A. VARON
2432 Hollywood Boulevard
Hollywood, Florida 33020
Attorney for Petitioner

Appendix

APPENDIX A

SUPREME COURT OF FLORIDA

THURSDAY, MAY 18, 1978

CASE NO. 52,531

**DISTRICT COURT OF APPEAL,
FOURTH DISTRICT
76-2568**

PAUL KUGEL,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5c(6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

OVERTON, C.J., ADKINS, ENGLAND, SUNDBERG
and HATCHETT, JJ., concur

A True Copy

TEST:

Sid J. White
Clerk Supreme Court.

By: Dubline Causseaux
Deputy Clerk

TC

cc: Hon. Clyde L. Heath, Clerk
Hon. Humes T. Lasher, Judge
Hon. Robert E. Lockwood, Clerk

Edward M. Kay, Esquire
Paul H. Zacks, Esquire

APPENDIX B

IN THE SUPREME COURT OF FLORIDA

MONDAY, JULY 31, 1978

CASE NO. 52,531
DCA CASE NO. 76-2568

PAUL KUGEL,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

On consideration of the petition for rehearing filed
by attorney for petitioner,

IT IS ORDERED by the Court that said petition be
and the same is hereby denied.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

By Dubline Causseaux
Deputy Clerk

C

cc: Hon. Clyde L. Heath, Clerk
Hon. Humes T. Lasher, Judge
Hon. Robert E. Lockwood, Clerk
Steadman S. Stahl, Jr., Esquire
• of Varon & Stahl
Paul H. Zacks, Esquire

APPENDIX C

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA
FOURTH DISTRICT

JULY TERM 1977

CASE NO. 76-2568

PAUL KUGEL,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Decision filed September 20, 1977

Appeal from the Circuit Court for Broward County;
Humes T. Lasher, Judge.

Edward M. Kay and Steadman S. Stahl, Jr., of
Varon, Stahl, Kay and Roderman, Hollywood, for ap-
pellant.

Robert L. Shevin, Attorney General, Tallahassee,
and Paul H. Zacks, Assistant Attorney General, West
Palm Beach, for appellee.

PER CURIAM.

AFFIRMED.

ALDERMAN, C.J., and DOWNEY and LETTS, JJ.,
concur.

APPENDIX D

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD
COUNTY, FLORIDA

IN THE MATTER OF THE INTERCEPTION OF
WIRE COMMUNICATIONS OF PAUL KUGEL,
a/k/a RED KING AND OTHER PERSONS UN-
KNOWN, TO AND FROM TELEPHONE
FACILITIES, NUMBERED 305, 564-2448,
LISTED TO ARLENE GLADSTONE, LOCATED
AT 3700 GALT OCEAN MILE, APARTMENT
NO. 510, FORT LAUDERDALE, COUNTY OF
BROWARD, STATE OF FLORIDA, SAID AP-
PLICATION BEING MADE BY DETECTIVE L.
OLIVIERI, OF THE FORT LAUDERDALE
POLICE DEPARTMENT, TO INCLUDE NOT
ONLY WIRE COMMUNICATIONS, BUT ORAL
COMMUNICATIONS AS WELL.

APPLICATION AND AFFIDAVIT

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

Detective L. Olivieri, being first duly sworn, states
that:

1. He is a duly authorized police officer of the City
of Fort Lauderdale, Florida, Organized Crime Bureau

and has been employed by the City of Fort Lauderdale Police Department for the past twelve (12) years, being involved in the past with numerous investigations regarding the forthcoming alleged violations of law.

2. Further, he is empowered to conduct investigations and to make arrests for gambling and felony bookmaking violations prohibited by Chapter 849, Florida Statutes, and is currently responsible for the investigation detailed herein which is being carried on in an organized manner and as a conspiracy in violation of Chapters 849 and 833 of the Florida Statutes, and in aid of which investigation this is made for an Order authorizing the interception of wire or oral communications as herein above and herein after specified.

3. Your Affiant, Detective L. Olivieri, is authorized to make this application by the Honorable Philip S. Shailer, State Attorney, Seventeenth Judicial Circuit of Florida, Fort Lauderdale, Broward County, Florida; the officer authorized by statute to authorize the same.

4. Pursuant to Section 931.09(1)(b), Florida Statutes, the facts and circumstances relied upon by your Affiant to justify his belief that an Order should be issued are as follows:

On occasions between June of 1975 and the date of this Affidavit, your Affiant has observed Paul Kugel a/k/a Red King meet with individuals who are known to be involved in illegal gambling operations in South Florida. On May 28, 1975, Paul Kugel a/k/a Red King was observed by your Affiant with Anthony Accetturo

and Joseph Covello, known organized crime figures out of the New Jersey area. Both are heavily involved in gambling, extortion and loan sharking. Covello is a known associate of the Carlo Gambino "family" in organized crime. On November 24, 1975, Paul Kugel a/k/a Red King was observed by an informant in Charlie Brown's Steak House, Hallandale, Broward County, Florida, in conference with Emilio Delio, a known illegal gambling figure in South Florida.

On August 15, 1975, Paul Kugel a/k/a Red King was indicted by the Second State Wide Grand Jury for three (3) counts of Conspiracy to Maintain a Gambling House. Those conspiracies were with individuals who previously conducted the illegal acceptance and laying off of wagers in violation of Florida Statutes over the telephones registered to them at private residences. All three individuals, Heyward Buddy Spires, Alan P. Moriarty and Eugene McCormack, either plead guilty to, or were convicted of, the crimes of Maintaining a Gambling House in Broward Circuit Court previous to the date of this Application. The above three individuals have testified under oath, and your Affiant was present at all three (3) testimonies, that they acted for, and on behalf of, Paul Kugel a/k/a Red King in the maintenance of their gambling operations. The three count indictment against Paul Kugel a/k/a Red King was quashed by Judge Gail Lee of the Broward County Circuit Court between August 15, 1975, and September 19, 1975, pursuant to sworn depositions from Eugene McCormack, Alan P. Moriarty and Heyward Buddy Spires; State Attorney Philip Shailer, of the Seventeenth Judicial Circuit, refiled direct Information on those identical three counts. Those counts of Conspiracy are pending as of the date of this Affidavit.

On September 22, 1975, your Affiant, together with Special Agent Dave Jellison of the Federal Bureau of Investigation, spoke with a Confidential Informant whom your Affiant believes to be trustworthy and reliable and who has been trustworthy and reliable in the past, and whose information has been instrumental in the arrest and conviction of numerous gambling and bookmaking figures both at the State and Federal level. This Informant told your Affiant that Paul Kugel a/k/a Red King had returned to the bookmaking business; however, the Informant told your Affiant that Paul Kugel a/k/a Red King was no longer using "clerks" like Heyward Buddy Spires, Alan P. Moriarty and Eugene McCormack, but was handling his own "action" using only trustworthy customers who wager in thousand dollar increments. Your Affiant knows that Paul Kugel a/k/a Red King (and the operation with which he was associated in the past) through a previous investigation, to operate his gambling business solely by use of the telephone.

During the month of October, 1975, and through November, 1975, up to the date of this Application your Affiant together with Officer Pete Melwid of the Fort Lauderdale Police Department, made numerous inquiries in the northeast area of Fort Lauderdale where Paul Kugel a/k/a Red King formerly operated. Each source of information was consistent. Each source of information was a former bettor or wagerer with Paul Kugel a/k/a Red King. Each source of information confirmed that Paul Kugel a/k/a Red King was back in business again accepting wagers and laying off wagers in violation of the criminal laws of the State of Florida, but did not accept illegal wagers from those previous bettors. Each source of information told your Affiant and Officer Pete Melwid that Paul Kugel a/k/a Red King

was only accepting wagers from high stakes bettors with whom Paul Kugel a/k/a Red King has previously had contact.

On November 24, 1975, your Affiant met with a second Confidential Informant whom your Affiant has had contact with in the past, and who your Affiant believes to be trustworthy and reliable in his information, and has, in fact, in the past, proven trustworthy and reliable in other information given to your Affiant pertaining to illegal wagers and bookmaking in violation of the criminal statutes in the State of Florida. Your Affiant was told by this Informant that Paul Kugel a/k/a Red King is back in the bookmaking business as of that date and that one of his heaviest bettors is a subject known to your Affiant by the name of Pete Oatess. Your Affiant knows from other informants and general intelligence information that Pete Oatess is an extremely heavy gambler known to place wagers in the amounts of five thousand (\$5,000.00) dollars to ten thousand (\$10,000.00) dollars. This Informant advised your Affiant that Paul Kugel a/k/a Red King is using telephone number Area Code 305, 564-2448 to place and accept illegal wagers in violation of criminal statutes of the State of Florida. This Confidential Informant further advised your Affiant that Paul Kugel a/k/a Red King had "some kind of transfer rig" on his telephone. This Informant is known by your Affiant to be versed in the gambling operations in Broward County area and, in fact, is a convicted gambler himself.

Pursuant to the information herein, your Affiant contacted Southern Bell Security concerning telephone number Area Code 305, 564-2448 and learned from Southern Bell that that number is listed to Arlene

Gladstone at 3700 Galt Ocean Mile, Apartment No. 510, Fort Lauderdale, Broward County, Florida. Your Affiant knows that address to be the residence address of Paul Kugel a/k/a Red King. Your Affiant believes that Arlene Gladstone does not live at that address but was either a previous owner of condominium No. 510 or is a fictitious name. Further, your Affiant was advised by the telephone company that that particular number Area Code 305, 564-2448, is serviced by an Electronic Switching Service (ESS) installed since October 31, 1975. Your Affiant interviewed H. M. Robertson, the telephone Security Manager of Southern Bell, and learned that ESS is a service which enables the subscriber, or the person dialing the serviced telephone, to dial "72" on his line, and then, by dialing another telephone number, transfer all calls that would have come through the first number through the second number dialed after the "72". Your Affiant is aware that this would enable a bookmaker to set this telephone up so that he could transfer calls to any area of the City, including a telephone booth, on a temporary or permanent basis. This type of system would reduce the effectiveness of a wire intercept on the original number unless and until the forward number could be learned and the wire tap equipment switched to that receiving number. Your Affiant does not know whether Paul Kugel a/k/a Red King expects to use said forwarding device during the pendency of this Authorization. However, if said device is used it will only be switching from the number for which said Authorization is herein requested.

In the above facts and circumstances, your Affiant has probable cause to believe, and does believe, that Paul Kugel a/k/a Red King is using telephone number

Area Code 305, 564-2448 to violate the gambling laws of the State of Florida in an organized manner and as a conspiracy with unknown persons whom your Affiant believes to be "heavy bettors".

5. Pursuant to Section 934.09 (1) (c), Florida Statutes, a particular description of the type of communications sought to be intercepted is as follows: Telephone conversations between Paul Kugel a/k/a Red King and any person or persons unknown with whom illegal wagers are being placed and laid off and the felony bookmaking laws are being violated in violation of the laws of the State of Florida, as stated in paragraph 4 (inclusive) above. Further, pursuant to Section 934.09 (1) (c), Florida Statutes, the Affiant states that the following investigative procedures are usually employed in the investigation of this type of criminal case:

- (a) Search Warrants
- (b) Confidential Informants
- (c) Surveillance — Visual
- (d) Undercover Agents
- (e) Use of Subpoena or Grand Jury
- (f) Interviews

Those procedures have either been tried and failed or reasonably appear to be unlikely to succeed for the following reasons:

a) There is no reason to suspect that execution of a search warrant would reveal the names of the people with whom Paul Kugel a/k/a Red King is conspiring. While materials may possibly be seized, if the names are not also uncovered, not only would the reason for this investigation be frustrated, but the principals would be

alerted of this investigation and other avenues would be compromised.

b) Your Affiant has attempted to use a Confidential Informant but his effectiveness is merely to give information as herein noted. No Confidential Informant can indentify other people who are conspiring with Paul Kugel a/k/a Red King except for Pete Oatess as described herein. Your Affiant, despite effort to do so cannot identify any informants who can place bets with Paul King a/k/a Red King.

c) Physical surveillance, on the occasions that it was used, has proven unsuccessful in any identification whatsoever, and has only established that all activity is being carried on inside the apartment by telephone. Approximately, 12-15 hours of surveillance was accomplished by your Affiant and other agents during October and November. Surveillance of the apartment is complicated by the fact that any length of time spent surveilling is virtually in the open due to the placement of the apartment and would jeopardize the security of this investigation.

d) Your Affiant has considered the use of an undercover agent but discarded it because Paul Kugel a/k/a Red King is extremely cautious about new bettors and your Affiant believes him to be so insulated that undercover agents would be impossible to place. Further he would not be able to identify other people with whom Paul Kugel a/k/a Red King is conspiring to violate the gambling and felony bookmaking laws of the State of Florida, but only to wager himself.

e) There is no reason to believe that Paul Kugel a/k/a Red King would testify before a Grand Jury or State Attorney under subpoena without a grant of immunity to Paul Kugel a/k/a Red King and your Affiant does not believe the ends of justice would be served by immunizing Paul Kugel a/k/a Red King.

f) Your Affiant has interviewed a number of sources noted herein but without success in determining who Paul Kugel a/k/a Red King is conspiring with to bookmake in Florida with the exception of Pete Oatess.

g) Your Affiant knows that voice identification is sometimes difficult, if not impossible, for one who does not previously have knowledge of the particular characteristics of the person calling or know personally that person. For that reason, and for all reasons herein, and as a part and parcel to this application, your Affiant requests this Court's Order in addition to the Order of Interception pursuant to Florida Statutes 934, for the attachment of a pen register device to record the telephone number called from 564-2448, so that identification of the parties with whom Paul Kugel a/k/a Red King, is conspiring to violate the gambling and felony bookmaking laws of the State of Florida. Your Affiant knows that only in this way will an accurate determination be able to be achieved regarding those other persons.

5) Pursuant to Section 934.09 (1) (b), Florida Statutes, a particular description of the nature and location of the facilities from which the communications are to be intercepted is as follows:

a) The records of Southern Bell Telephone Company indicate that telephone number Area Code 305,

564-2448, is a telephone assigned to Arlene Gladstone, located at 3700 Galt Ocean Mile, Apartment No. 510, Fort Lauderdale, Broward County, Florida.

6) Pursuant to Section 934.09 (1) (b), Florida Statutes, a particular description of the type of communications sought to be intercepted between Paul Kugel a/k/a Red King and other unidentified persons and their identities with the communications consisting of the illegal placing and laying off to wagers in violation of the gambling and felony bookmaking laws of the State of Florida.

7) Pursuant to Section 934.09 (1) (c), Florida Statutes, a full and complete statement of why other investigative procedures reasonably appear unlikely to succeed have been listed in Paragraphs I (a), (b), (c), (d), (e) and (f) herein.

8) Based upon your Affiant's experience in the investigation of Paul Kugel a/k/a Red King and the facts as contained herein, your Affiant believes that oral or wire communications herein sought to be intercepted as evidence is not legally privileged.

9) Your Affiant, therefore, has reasonable grounds to believe, and in fact, does believe, that illegal gambling and felony bookmaking is being carried on at 3700 Galt Ocean Mile, Apartment No. 510, Fort Lauderdale, County of Broward, State of Florida, pursuant to the foregoing information.

Pursuant to Section 934.09 (1) (d), Florida Statutes, the period of time that the interception will be required to be maintained will be until communications

are intercepted which will permit investigators to identify the unknown person or persons with whom Paul Kugel a/k/a Red King is violating the gambling and felony bookmaking laws, and which will reveal the complicity of the unknown person or persons in the criminal conspiracy above described; but in no event shall the period of time be longer than thirty (30) days from the date of this Order, whichever is earlier.

10) Pursuant to Section 934.09 (1) (3), Florida Statutes, to the Affiant's knowledge, no prior application has been made for an Order authorizing the interception of communications regarding telephone number Area Code 305, 564-2448, the premises, or the indicated persons, or any persons connected with this particular activity at 3700 Galt Ocean Mile, Apartment No. 510, Fort Lauderdale, Broward County, Florida.

11) Your Affiant states that all reasonable means will be taken to protect any innocent users of the above-described telephone from the interception of their wire or oral communications. Safeguards include, but are not limited to, the following:

A constant surveillance will be maintained on recording devices and upon ascertaining that an innocent conversation is in progress, the recording device will be turned off.

12) Pursuant to Section 934.07, Florida Statutes, the duly executed authorization of the Honorable Philip S. Shailer, State Attorney for the Seventeenth Judicial Circuit of the State of Florida, is attached hereto, made a part hereof, and incorporated herein by reference, but more specifically, as Exhibit "A", as aforesaid in Section 3 above.

WHEREFORE, pursuant to Section 934.07, Florida Statutes, Affiant prays that an Order authorizing the interception of wire or oral communications on telephone number Area Code 305, 564-2448 be issued according to law, commanding Chief Leo F. Callahan, and all duly authorized police officers of the City of Fort Lauderdale, with the proper and necessary assistance, in the daytime or the nighttime, or on Sunday, as the exigencies of the situation may demand or require, to intercept wire or oral communications of the type described above, and to make duly constituted reports, records and transcripts thereof, according to law.

Detective L. Olivieri
Fort Lauderdale Police Department
Criminal Intelligence Division
Organized Crime Bureau
Fort Lauderdale, Florida

SWORN TO AND SUBSCRIBED before this 26th
day of November, 1975.

CIRCUIT COURT JUDGE
Seventeenth Judicial Circuit
Broward County, Florida

APPENDIX E

Constitution

Amend. 4

AMENDMENT IV — SEARCHES AND SEIZURES

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT XIV — CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.